

AMENDED IN SENATE JANUARY 29, 2007

AMENDED IN SENATE JANUARY 17, 2007

SENATE BILL

No. 12

Introduced by Senator Lowenthal

December 4, 2006

An act to amend Section 65584 of, and to add and repeal Section 65584.08 of, the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, Lowenthal. Planning and zoning: housing element: Southern California Association of Governments.

(1) The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a housing element that identifies and analyzes existing and projected housing needs and includes a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

The Planning and Zoning Law requires each local government to review its housing element as frequently as appropriate to evaluate certain data, and establishes June 30, 2007, as the date of the 4th revision for the housing element of local governments within the jurisdiction of the Southern California Association of Governments.

The Planning and Zoning Law requires that, at least 2 years prior to a scheduled revision of a local government's housing element, each council of governments, or delegate subregion, as applicable, develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region, or within the subregion, where applicable, pursuant to

specified provisions. That law requires that the methodology be consistent with specified objectives that include, among other things, a determination of the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.

This bill, until January 1, 2015, would substantially revise the procedure for the Southern California Association of Governments, or delegate subregion, as applicable, to develop a final allocation plan for distributing the existing and projected regional housing need to cities and counties within the region or subregion.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65584 of the Government Code is
2 amended to read:

3 65584. (a) (1) For the fourth and subsequent revisions of the
4 housing element pursuant to Section 65588, the department shall
5 determine the existing and projected need for housing for each
6 region pursuant to this article. For purposes of subdivision (a) of
7 Section 65583, the share of a city or county of the regional housing
8 need shall include that share of the housing need of persons at all
9 income levels within the area significantly affected by the general
10 plan of the city or county.

11 (2) While it is the intent of the Legislature that cities, counties,
12 and cities and counties should undertake all necessary actions to
13 encourage, promote, and facilitate the development of housing to
14 accommodate the entire regional housing need, it is recognized,
15 however, that future housing production may not equal the regional
16 housing need established for planning purposes.

17 (b) The department, in consultation with each council of
18 governments, shall determine each region's existing and projected
19 housing need pursuant to Section 65584.01 at least two years prior
20 to the scheduled revision required pursuant to Section 65588. The
21 appropriate council of governments, or for cities and counties
22 without a council of governments, the department, shall adopt a

1 final regional housing need plan that allocates a share of the
2 regional housing need to each city, county, or city and county at
3 least one year prior to the scheduled revision for the region required
4 by Section 65588. The allocation plan prepared by a council of
5 governments shall be prepared pursuant to Sections 65584.04 and
6 65584.05 with the advice of the department.

7 (c) Notwithstanding any other provision of law, the due dates
8 for the determinations of the department or for the council of
9 governments, respectively, regarding the regional housing need
10 may be extended by the department by not more than 60 days if
11 the extension will enable access to more recent critical population
12 or housing data from a pending or recent release of the United
13 States Census Bureau or the Department of Finance. If the due
14 date for the determination of the department or the council of
15 governments is extended for this reason, the department shall
16 extend the corresponding housing element revision deadline
17 pursuant to Section 65588 by not more than 60 days.

18 (d) The regional housing needs allocation plan shall be
19 consistent with all of the following objectives:

20 (1) Increasing the housing supply and the mix of housing types,
21 tenure, and affordability in all cities and counties within the region
22 in an equitable manner, which shall result in each jurisdiction
23 receiving an allocation of units for low- and very low income
24 households.

25 (2) Promoting infill development and socioeconomic equity,
26 the protection of environmental and agricultural resources, and
27 the encouragement of efficient development patterns.

28 (3) Promoting an improved intraregional relationship between
29 jobs and housing.

30 (4) Allocating a lower proportion of housing need to an income
31 category when a jurisdiction already has a disproportionately high
32 share of households in that income category, as compared to the
33 countywide distribution of households in that category from the
34 most recent decennial United States census.

35 (e) For purposes of this section, “household income levels” are
36 as determined by the department as of the most recent decennial
37 census pursuant to the following code sections:

38 (1) Very low incomes as defined by Section 50105 of the Health
39 and Safety Code.

1 (2) Lower incomes, as defined by Section 50079.5 of the Health
2 and Safety Code.

3 (3) Moderate incomes, as defined by Section 50093 of the Health
4 and Safety Code.

5 (4) Above moderate incomes are those exceeding the
6 moderate-income level of Section 50093 of the Health and Safety
7 Code.

8 (f) Notwithstanding any other provision of law, determinations
9 made by the department, a council of governments, or a city or
10 county pursuant to this section or Section 65584.01, 65584.02,
11 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08
12 are exempt from the California Environmental Quality Act
13 (Division 13 (commencing with Section 21000) of the Public
14 Resources Code).

15 SEC. 2. Section 65584.08 is added to the Government Code,
16 to read:

17 65584.08. (a) For the purposes of this section the “association”
18 is the Southern California Association of Governments.

19 (b) For the fourth revision of the housing element pursuant to
20 Section 65588 within the region of the association, the existing
21 and projected need for housing for the region as a whole and each
22 jurisdiction within the region shall be determined according to the
23 provisions of this article except as those provisions are specifically
24 modified by this section.

25 (c) The existing and projected housing need for the region shall
26 be determined in the following manner:

27 (1) The association shall develop an integrated long-term growth
28 forecast by five-year increments. The growth forecast is not a
29 regional housing needs allocation plan.

30 (2) The forecast shall consist of the following three major
31 variables by geographic area throughout the region:

32 (A) Population.

33 (B) Employment.

34 (C) Households.

35 (3) The association shall convert households into housing units
36 using replacement rates from the Department of Finance, and
37 county level vacancy rates, by weighing vacancy rates of for-sale
38 and for-rent units.

39 (4) The association shall transmit the forecast to the department
40 with the following variables:

- 1 (A) Population.
- 2 (B) Employment.
- 3 (C) Households.
- 4 (D) Housing units.
- 5 (E) Household formation ratios.
- 6 (F) Replacement rates.
- 7 (G) Owner and renter vacancy rates.

8 (5) Upon receiving the forecast, the department shall determine
9 the existing and projected housing need for the region in
10 accordance with paragraph (2) of subdivision (c) of, and with
11 subdivision (d) of, Section 65584.01.

12 (d) The association shall conduct a public workshop for the
13 purpose of surveying its member jurisdictions pursuant to
14 subdivision (b) of Section 65584.04. Not less than 30 days prior
15 to the date of commencement of the public workshop, the
16 association shall notify affected jurisdictions about the manner in
17 which it proposes to consider the factors specified in subdivision
18 (d) of Section 65584.04 in the housing allocation process. Local
19 governments may submit information about the factors before the
20 workshop for consideration by the association and incorporation
21 into the discussion of the methodology at the workshop.

22 (e) The association shall delegate development of the housing
23 need allocation plan to the subregional entities, if the association
24 and the subregional entities agree in writing to that delegation and
25 the association ensures that the total regional housing need, by
26 income category, is maintained.

27 (f) The association shall conduct a minimum of 14 public
28 workshops to discuss the regional growth forecast and the
29 methodology, including the factors, by which housing needs are
30 proposed to be allocated to subregions, or, in the absence of a
31 subregion, to individual jurisdictions. The workshops shall also
32 present opportunities for jurisdictions and members of the public
33 or relevant stakeholders to provide information to the association
34 on local conditions and factors. Following the workshops, and
35 concurrent with the adoption of its draft housing allocation plan,
36 the association shall describe the following:

37 (1) The manner in which the plan is consistent with the housing,
38 employment, transportation, and environmental needs of the region.

39 (2) The manner in which the methodology that produced the
40 plan complies with subdivision (e) of Section 65584.04.

1 (3) The manner in which the information received in the public
2 workshops was considered in the methodology used to allocate
3 the regional housing need.

4 (g) Following the adoption of the draft housing allocation plan,
5 a local government may request from the association or the delegate
6 subregion, as applicable, a revision of its share of the regional
7 housing need in accordance with the factors described in
8 subdivision (d) of Section 65584.04, including any information
9 submitted by the local government pursuant to subdivision (d).
10 The request for a revised share shall be based upon comparable
11 data available for all affected jurisdictions and accepted planning
12 methodology, and shall be supported by adequate documentation.
13 The association or delegate subregion, as applicable, shall establish
14 a timeline for accepting and reviewing revision requests. However,
15 revision requests shall not be accepted after the deadline for filing
16 an appeal pursuant to subdivision (i). The association or delegate
17 subregion shall respond to the request in writing no later than the
18 close of the appeal process, and shall describe the rationale for its
19 decision.

20 (h) Both the methodology and allocation process shall consider
21 the factors listed under subdivision (d) of Section 65584.04 and
22 promote the goals and objectives of subdivision (d) of Section
23 65584 and the regional transportation plan growth forecasting
24 process to integrate housing planning with projected population
25 growth and transportation. The association shall complete the final
26 housing need allocation plan on or before June 30, 2007. It is the
27 intent of the Legislature that the housing element update deadlines,
28 as required under Section 65588, and as modified by the
29 department under paragraph (2) of subdivision (a) of Section
30 65584.02, will not be extended. The association shall submit a
31 report to the Legislature on or before March 30, 2007, describing
32 the progress it has made in completing the final need allocation
33 plan.

34 (i) A city or county may file one appeal of its draft allocation
35 to the association, or a delegate subregion, pursuant to subdivision
36 (e) of Section 65584.05, based upon any of the following criteria:

37 (1) The association or delegate subregion, as applicable, failed
38 to adequately consider the information submitted pursuant to
39 subdivision (d), or a significant and unforeseen change in

1 circumstances has occurred in the local jurisdiction that merits a
2 revision of the information submitted pursuant to that subdivision.

3 (2) The association or delegate subregion, as applicable, failed
4 to determine the local government's share of the regional housing
5 need in accordance with the information described in, and the
6 methodology established pursuant to subdivision (f).

7 (j) A city or county shall not be allowed to file more than one
8 appeal under subdivision (i), and no appeals may be filed relating
9 to any adjustments made pursuant to subdivision (g) of Section
10 65584.05.

11 (k) The final allocation plan shall be subject to the provisions
12 of subdivision (h) of Section 65584.05.

13 (l) The final allocation plan adopted by the association shall
14 ensure that the total regional housing need, by income category,
15 as determined under subdivision (c), is maintained. The resolution
16 adopted by the association approving the final housing need
17 allocation plan shall show how the plan:

18 (1) Is consistent with the objectives of this section and article.

19 (2) Is consistent with the pending update of the regional
20 transportation plan ~~and the air quality conformity finding of the~~
21 ~~plan.~~

22 (3) Takes into account the information provided to the
23 association by its member jurisdictions and members of the public
24 pursuant to subdivisions (d) and (f).

25 (m) This section shall remain in effect only until January 1,
26 2015, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2015, deletes or extends that date.

28 ~~SEC. 3. (a) The Legislature hereby finds and declares both of~~
29 ~~the following:~~

30 ~~(1) Existing law relating to the regional housing need allocation~~
31 ~~process under Sections 65584 to 65584.07, inclusive, of the~~
32 ~~Government Code reflects the consensus of all stakeholders~~
33 ~~involved in the Housing Element Working Group convened by~~
34 ~~the Department of Housing and Community Development in 2003~~
35 ~~and 2004.~~

36 ~~(2) With respect to a few elements of these laws, this act~~
37 ~~establishes a one-time exception for the 2006-14 planning period~~
38 ~~that applies only to the region of the Southern California~~
39 ~~Association of Governments.~~

1 ~~(b) Accordingly, it is the intent of the Legislature in enacting~~
2 ~~this act that no further exceptions shall be made for other regions~~
3 ~~or other planning periods to the revision request process stipulated~~
4 ~~in subdivisions (b) and (c) of Section 65584.05 of the Government~~
5 ~~Code.~~

6 ~~SEC. 4.~~

7 *SEC. 3.* This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the Constitution and shall go into
10 immediate effect. The facts constituting the necessity are:

11 In order to allow the Southern California Association of
12 Governments, at the earliest possible time, to develop a final
13 allocation plan for distributing the existing and projected regional
14 housing need to cities and counties within its jurisdiction on or
15 before the June 30, 2007, deadline imposed under existing law, it
16 is necessary that this act take effect immediately.